

## REMARKS

The Applicant gratefully acknowledges the Examiner's decision that Claims 49-51 are now allowable. The Examiner, however, does provide a new rejection to the remaining claims:

- I. Claims 7-12, 15-18, and 34-48 are rejected under 35 U.S.C. §112 ¶1 as allegedly containing subject matter not described in the specification.

### I. **Claims 7-12, 15-18, and 34-48 Are Adequately Described**

The Examiner states that:

The specification as originally filed does not provide support for the invention as now claimed: ... Applicant's amendment, filed 9/8/2005, does not provide sufficient direction for the written description for the limitation lacking a cytokine receptor antagonist ...

*Office Action* pg. 2-3. The Applicant disagrees because, as pointed out in the previous response, there is explicit support in the specification for this claimed embodiment, for example:

... an IL-1 receptor antagonist has been identified that occupies the same receptor site as IL-1, but mediates no biological effect. Blockage of the IL-1 receptor with this molecule can reduce mortality from endotoxin shock. [K. Ohlsson *et al.*, *Nature* 348:550-552 (1990).] While the IL-1 receptor antagonist appears to be well tolerated, the required dosage is extremely large (over 100 mg of recombinant protein per kg of body weight is infused over a period of hours to days). For human therapy, the 8-10 grams of recombinant protein anticipated to be required is likely to be extremely costly (several thousand dollars).

*Applicants' Specification*, pg 3 *ln 7-15* [emphasis added]. Clearly, the Applicants are teaching away from the use of cytokine receptor antagonists and present their disadvantages as one rationale for the use of the presently claimed invention.

Consequently, the Applicants believe that this provides sufficient disclosure such that a claim element disclaiming cytokine receptor antagonists is proper.

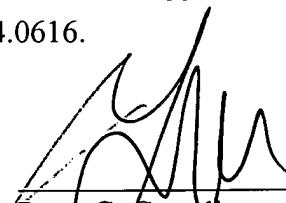
Nonetheless, without acquiescing to the Examiner's argument but to further the prosecution, and hereby expressly reserving the right to prosecute the original (or similar) claims, Applicants have canceled Claims 7-12, 15-18, and 34-48. This cancellation is

made not to acquiesce to the Examiner's argument but only to further the Applicants' business interests, better define one embodiment and expedite the prosecution of this application.

### CONCLUSION

The Applicants believe that the arguments and claim amendments set forth above traverse the Examiner's rejections and, therefore, request that all grounds for rejection be withdrawn for the reasons set above. Should the Examiner believe that a telephone interview would aid in the prosecution of this application, the Applicants encourage the Examiner to call the undersigned collect at 617.984.0616.

Dated: February 27, 2006



Peter G. Carroll  
Registration No. 32,837

MEDLEN & CARROLL, LLP  
101 Howard Street, Suite 350  
San Francisco, California 94105  
617.984.0616